

CENTURY FLOORSPACE STANDARD TERMS AND CONDITIONS

1. **Agreement:** In consideration of Century FloorSpace ("Seller") agreeing to sell to the Buyer (as indicated in Seller's invoice), the Buyer agrees as follows: The terms and conditions contained herein, together with the terms and conditions of any other credit application, quotation, confirmation and/or invoice prepared by Seller, constitute the agreement between the parties (the "Agreement"). Buyer agrees to each and every term contained in the Agreement as a precondition to Seller's performance. Any term or condition in any purchase order or other form or document issued by Buyer, regardless of the materiality of the term or condition, that differs from or is contrary to the terms and conditions contained in the Agreement are objected to and excluded unless expressly agreed to in a written acknowledgment issued by Seller. No other terms or conditions not set forth in the Agreement shall apply unless expressly agreed to in a written acknowledgment issued by Seller.

2. **Acceptance:** If the terms and conditions in this Agreement differ in any way from the terms and conditions of any purchaser order or other document issued by Buyer, then this Agreement shall constitute a counter-offer and shall not be construed as, or be effective as, an acceptance of Buyer's terms and conditions. The terms and conditions contained herein will be the complete and exclusive statement of the terms of the agreement between the parties. Buyer's acceptance of the goods or services sold hereunder shall constitute Buyer's manifestation of its asset to the terms and conditions in this Agreement.

3. **Payment:** Payment shall be made within 15 days from date of Invoice. A time-price differential charge equal to 1.7% per month (20.4 % per annum) may be charged on all balances not paid in full as of 30 days from date of Invoice. If Buyer's financial responsibility shall become unsatisfactory to Seller at any time and for any reason, Seller shall have the right, in addition to whatever other rights Seller may have at law or equity, to require payment in cash or to obtain satisfactory security from Buyer before making any further deliveries. In case any payment is not made when due, Seller shall have the right, in addition to its other remedies, to seek specific performance of this Agreement, to suspend any further deliveries, alter payment terms, or terminate this Agreement. Approval of credit for one or more deliveries shall not be deemed a waiver of this provision. Any dispute regarding the Invoice received by Buyer from Seller must be submitted to Seller in writing within 30 days from the date of Invoice, otherwise the account will be deemed stated and due and owing.

4. **Disclaimer of Warranties:**

a. **SELLER IS NOT A MANUFACTURER OF GOODS. SELLER DISCLAIMS ALL WARRANTIES IN CONNECTION WITH THE GOODS SOLD TO BUYER, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION DESCRIPTION, QUALITY, DESIGN, PERFORMANCE, SPECIFICATIONS, CONDITION, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. BUYER ACKNOWLEDGES THAT BUYER IS NOT RELYING ON SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH GOODS SUITABLE FOR ANY PARTICULAR PURPOSE. THE GOODS SOLD HEREUNDER ARE SOLD "AS IS."**

b. **TO THE EXTENT ANY MANUFACTURER'S WARRANTY IS ASSIGNABLE TO BUYER, SELLER HEREBY ASSIGNS SUCH WARRANTY TO BUYER, WITHOUT RECOURSE TO SELLER IN ANY WAY.**

c. **NO PERSON, INCLUDING BUYER, IS AUTHORIZED BY SELLER TO MAKE WARRANTIES OR ASSUME ANY LIABILITY FOR SELLER WITH RESPECT TO THE GOODS OR SERVICES SOLD HEREUNDER. ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES AND SHALL NOT BE RELIED ON BY BUYER AND ARE NOT PART OF THE AGREEMENT. SELLER'S WARRANTY OBLIGATIONS, AND BUYER'S REMEDY, ARE SOLELY AS STATED IN THIS AGREEMENT.**

d. **NOTICE OF CLAIMS: BUYER SHALL INSPECT THE GOODS AND SERVICES IMMEDIATELY UPON DELIVERY (FOR PURPOSES OF GOODS) OR INSTALLATION (FOR PURPOSES OF SERVICE). NOTICE OF ANY CLAIM FOR SHORTAGE OR DEFECTS DISCOVERABLE ON SUCH INSPECTION SHALL BE MADE TO SELLER WITHIN TEN (10) DAYS THEREAFTER. BUYER SHALL, UPON SELLER'S REQUEST, FURNISH REASONABLE PROOF OF ANY CLAIMED DEFECT AND SELLER SHALL BE GIVEN AN OPPORTUNITY TO INVESTIGATE SUCH CLAIM. FAILURE OF BUYER TO GIVE NOTICE OF ANY CLAIM WITHIN THE SPECIFIED PERIOD SHALL BE DEEMED AN ABSOLUTE AND UNCONDITIONAL WAIVER OF SUCH CLAIM.**

5. **Limited Installation Warranty:**

a. **One Year Limited Warranty:** If, and only if, Buyer, in connection with goods purchased from Seller, also contracts with Seller to install such goods, Seller hereby warrants to Buyer that the goods will be free from defects or failure caused by improper installation for a period of one (1) year from the date of installation. If the Seller determines that the defect or failure is attributable to Seller's improper installation, Seller will, at its option, (1) repair the defective goods; (2) replace the defective goods; or (3) refund the purchase price.

b. Additionally, if a service contract is put in place in connection with the goods purchased from Seller, the Buyer is entitled to one (1) extra year of warranty covering the purchased product and shall be entitled to free routine service on the same purchased product(s).

c. Coverage: This installation warranty extends only to the original purchaser of the goods from Seller. This installation warranty is NOT transferable.

d. Exceptions to Limited Installation Warranty: This installation warranty does not cover (1) defects, damage, or failures attributable to the misuse or abuse of the goods by Buyer; (2) any modifications or alterations made to the goods or installation by Buyer; (3) normal wear and tear; (4) acts of nature, such as fires; or (5) failure to maintain the goods under any applicable manufacturer's warranty.

6. Limitation of Liability:

a. Exclusive Remedy: The exclusive remedy of the Buyer for any damages incurred relating to this Agreement, or under the Installation Warranty, is limited to, at the sole option of Seller, repair of the goods, replacement of the goods, or return of the goods, but in no case shall the amount of damages exceed the purchase price of the goods. In no event shall Seller be liable to Buyer or any other person or entity for damages of any kind, including, without limitation, indirect, special, incidental, consequential or punitive damages, arising from the sale or installation of the goods or in connection with the use or inability to use the goods for any purpose whatsoever, irrespective of whether the claims or actions for such damages are based upon contract, tort, negligence, strict liability, warranty or otherwise. In no event shall Seller incur any liability whatsoever for damages of any kind arising out of or relating to delay in delivery. **As to consumer transactions only, the exclusion of incidental or consequential damages may not apply to you because some states do not allow such limitations.**

b. Purchase Price: Should the remedy of repair or replacement be found to be inadequate or to have failed of its essential purpose for any reason whatsoever, Buyer agrees that return to it of the full purchase price of the particular goods by Seller shall prevent the remedy from failing of its essential purpose and shall be considered by Buyer a fair and adequate remedy.

7. Allocation of Risk: The disclaimer of warranties and limitation of liabilities set forth herein shall apply even if the express warranty set forth above fails of its essential purpose. Buyer acknowledges and agrees that Seller has set its prices and entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties. No other remedies shall be available to Buyer other than as set forth herein.

8. Risk of Loss: The goods sold pursuant to this Agreement are sold F.O.B. Seller's place of business. Buyer assumes responsibility for all costs of transportation. If Seller assists Buyer in this regard, it is agreed that such assistance is gratuitous, and Seller shall have no obligation or liability arising out of such assistance. Risk of loss shall pass to Buyer when Seller completes its performance with respect to delivery of the goods to Buyer (i.e. at Seller's place of business).

9. Indemnification: Buyer shall indemnify, defend and save Seller harmless from any liability, loss, cost, penalty, damage or expense, including attorneys' fees, which Seller may incur as a result of any claim, damage, injury, cause of action, proceeding, citation, or work stoppage arising out of or in any way connected with this Agreement and/or Buyer's use or modification of any goods or services provided by Seller pursuant to this Agreement. This indemnity includes all costs and attorney's fees, regardless of whether litigation is filed or arbitration demanded. This indemnity survives the termination or completion of the goods sold or services provided hereunder. This indemnity also includes all claims for patent infringement or any intellectual property claims.

10. Restocking Fee: Except as expressly set forth herein, Buyer may not return any goods without Seller's written consent. All returns are subject to a restocking fee/handling charge, which may change from time to time. Contact Seller to determine the exact amount. If the goods are specially ordered by the Buyer, and cannot be returned to the manufacturer, Seller shall have no obligation to accept the return of the goods, and Buyer shall remain liable for the entire purchase price of the goods.

11. Quotations: Any pricing quotation for goods or services provided by Seller to Buyer, whether provided in writing or verbally, shall expire 45 days after the quotation is provided.

12. Storage Fee: If Buyer purchases goods from Seller and such goods are delivered to Seller's place of business, but not installed within 30 days from the date the goods are delivered to Seller's place of business through no fault of Seller, then Seller may charge Buyer a monthly storage fee for such goods at a rate not to exceed \$5.00 per square foot of actual space used by the Buyer's goods.

13. Force Majeure: Seller shall not be liable for any delay or impairment of performance resulting in whole or in part from any cause beyond Seller's control including, without limitation, fires, floods, explosions, accidents or other catastrophes, acts of God, strikes, lockouts or labor disruption, wars, riots or embargo delays, government allocations or priorities, shortages of transportation, fuel, labor or materials, inability to procure the goods or raw materials, severe weather conditions, changes of law or regulation, or any other circumstance or cause beyond Seller's control. Such excuse from performance shall extend so long as the event continues to delay or impair Seller's performance.

14. Field Representations: The services of Seller's representatives in the field, including but not limited to salespeople and installers of Seller's goods, are offered only on the condition that Seller shall not be deemed to have approved of, or in any manner to have assumed responsibility for, the engineering, design, supervision, inspection, or quality of the workmanship of the goods or services provided hereunder, or of any project into which the goods or services are put. **IN NO EVENT SHALL THE SERVICES OR**

STATEMENTS OF SELLER'S REPRESENTATIVES CREATE A WARRANTY, EXPRESS OR IMPLIED, OR ANY OTHER OBLIGATION WITH RESPECT TO ANY PRODUCT OR SERVICE OF SELLER.

15. Security Interest: Title to the goods sold pursuant to this Agreement shall remain with Seller until all payments therefore shall have been made in full in cash. Seller shall retain a security interest in the goods, the accounts receivable related to the goods and the proceeds from the sale of the goods as security for Buyer's performance of its obligations. Buyer hereby authorizes Seller to create and file a financing statement. Buyer agrees to execute and deliver such other documents as necessary to create, perfect, preserve or enforce such security interest.

16. Costs of Collection: In the event Buyer or any Guarantor shall default in any way on Buyer's or such Guarantor's obligations under this Agreement or any other agreement between the parties, including without limitation the failure to make a timely payment, Buyer and Guarantor shall be liable to Seller for all of Seller's costs of collection including, but not limited to, attorney's fees and expenses.

17. Governing Law/Jurisdiction-Venue/Statute of Limitations: This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan without regard to its conflict of law doctrine. By entering into this Agreement, Buyer waives any right to a jury trial. By entering into this Agreement Buyer agrees to submit itself to jurisdiction in Michigan and to venue in any state or federal court located in Kent County, Michigan. **BUYER WAIVES ANY CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY WAY IF NOT BROUGHT WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION FIRST ACCRUED TO BUYER.** As to consumer transactions only, this limitation may not apply to you because some states do not allow limitations on how long a warranty lasts.

18. Entire Agreement: The Terms and Conditions hereof constitute the final, complete, and exclusive agreement between Seller and Buyer and supersede all other agreements, written or oral, regarding the subject matter hereof. No course of dealing or course of performance, and no parole evidence of any nature, shall be used to supplement or modify these terms and conditions.

19. Waiver: Failure of Seller to insist upon strict adherence to any term or condition of this Agreement on any occasion shall not be considered a waiver or deprive Seller of the right thereafter to insist upon strict adherence to that term or condition or any other term or condition of this Agreement. Any waiver must be in writing and signed by an authorized representative of Seller.

20. Partial Invalidity: If any term or condition hereof shall to any extent be illegal, invalid or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations or of such provision or obligation in any other jurisdiction shall not in any way be affected or impaired thereby.

21. Insurance/Bonding: For any commercial transaction, the Buyer must maintain and pay for insurance coverage of the types and with the limits set forth in this section and its subsections. Buyer agrees and acknowledges that Seller is entering into this Agreement in reliance on Buyer's representation that the policies of insurance contemplated by these provisions will be in place, with all premiums paid.

- a. Such coverage must be maintained in a form and with companies acceptable to Seller and must, notwithstanding the requirements of this section, cover bodily injury, and property damage.
- b. Each policy of insurance must name Seller as an additional named insured, on a primary and non-contributory basis, which may not be limited and must include completed operations coverage for a minimum of three (3) years after completion of the contractual relationship between Seller and the Buyer, and must provide that the same may not be canceled or altered, except upon thirty (30) days prior written notice to Seller.
- c. In the event any policy or policies of insurance that Buyer is required to maintain is written on a "claims made" insurance form, each policy must have a "retroactive date" which is not later than the date on which the parties entered into their agreement. Furthermore, should insurance coverage be written on a "claims made" basis, Buyer's obligation to provide insurance must be extended for an additional period equal to the statute of limitations for such claims in the State of Michigan, plus one year.
- d. By entering into this Agreement, and thereafter upon request, Buyer must provide to Seller a certification, signed by an authorized agent of Buyer and sworn to before a notary public under penalty of law, of the following: Buyer hereby certifies that it has not cancelled and that Buyer has not delivered, sent by overnight courier, mailed, faxed, sent by telegram, or transmitted by any other means any notice of cancellation of the Policies.
- e. Certificates evidencing coverage by the policies of insurance identified in the provisions of this Agreement (the "Policies"), for instance in the form for a certificate for Additional Insured for Ongoing and Products/Completed Operations or its equivalent, must be delivered to Seller prior to the delivery of any goods or services and from time to time thereafter at Seller's request. The delivery to Seller of current certificates is an absolute condition precedent to any obligation by Seller to Buyer.
- f. Buyer is independently responsible for any desired coverage against damage or loss to its own materials, facilities, roofs, equipment, scaffolds, bracing and similar items not covered by other policies of insurance.

- g. Seller and Buyer waive all rights against each other, including, but not limited to, rights of subrogation for damages caused by fire and other perils to the extent covered by the insurance required to be maintained hereunder.
- h. Prior to any performance by Seller or Buyer, Buyer must provide Certification of Insurance from an Insurance Company with an A.M. Best rating of A- or better evidencing coverage in amounts not less than the greater coverages required by the attached sample Certificate of Insurance and the following general principles.
 - i. Workers' Compensation Insurance: Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$500,000 per accident for bodily injury by accident; \$500,000 policy limit by disease; and \$500,000 per employee for bodily injury by disease. If Buyer is a sole proprietor unable to obtain such insurance, this requirement may be satisfied by providing to Seller certification from the applicable State agency that Buyer is not subject to the State's worker's compensation coverage requirements.
 - ii. Commercial General Liability Insurance: Covering Premises/Operations, and Bodily Injury, Property Damage, Personal Injury and Advertising Injury. Blanket Contractual Liability, XCU, and Completed Operations Coverage, Broad Form Property Damage including completed operations in the following minimum limits, or such higher limits as Buyer may specify:

Bodily Injury & Property Damage:	\$1,000,000 Each Occurrence
	\$1,000,000 Personal & Advertising Injury
	\$2,000,000 Products and Completed Aggregate
	\$2,000,000 General Aggregate per project
Excess/Umbrella Liability	\$1,000,000 Umbrella Form
 - iii. Automobile Liability: Covering all owned, non-owned and hired vehicles in the amount of \$1,000,000 Combined Single Limit.
 - iv. Completed Operations Liability: It is hereby agreed and understood that completed operations liability will be carried 3 years after the completion date of any project entered into using products that are the subject of this agreement.
 - v. Buyer must maintain these aggregate limits of insurance coverage for each project.
- i. The terms and requirements relating to insurance coverage are subject to change at any time and from time to time by Seller in its sole discretion and Buyer covenants and agrees to promptly comply with such changes.